



# MARIJUANA ORDINANCE

Amended 12/21/2021  
(Effective: January 11, 2022)

## Table of Contents

| <u>Articles</u> |                                 | <u>Page</u> |
|-----------------|---------------------------------|-------------|
| I               | Title                           | 1           |
| II              | Purpose & Authority             | 1           |
| III             | Effective Date                  | 1           |
| IV              | License Required                | 1           |
| V               | Application Procedure           | 2           |
| VI              | Standards for Permit            | 3           |
| VII             | Enforcement                     | 6           |
| VIII            | Conflicts with other Ordinances | 7           |
| IX              | Confidentiality                 | 7           |

# **Marijuana Ordinance**

## **Article I Title:**

This ordinance shall be known and cited as the “City of Waterville Marijuana Ordinance” and will be referred to hereinafter as “this Ordinance”. This Ordinance limits all Adult Use and Medical Marijuana Establishments to the zoning rules and regulations contained herein and to the districts specified.

## **Article II Purpose and Authority:**

**WHEREAS**, implementing a system for the regulation of Establishments for the sale, cultivation, manufacturing, and testing for both Adult Use and Medical Marijuana, is a complex function with significant administrative demands on the City of Waterville; and

**WHEREAS**, to ensure that possession and use of Adult Use and Medical Marijuana is limited to persons who are 21 years of age or older, except in the case of minors in possession of a Medical Marijuana Patient Card; and

**WHEREAS**, the City of Waterville believes that any production, testing, processing, or selling of Adult Use and Medical Marijuana should be conducted in a safe and fair manner for the health, safety, and welfare of the community, which includes complying with provisions of all applicable laws and ordinances relating to Adult Use and Medical Marijuana throughout the City of Waterville; and

**NOW THEREFORE**, this Ordinance is adopted pursuant to the Marijuana Legalization Act, Title 28-B M.R.S. c. 1; Maine’s Medical Marijuana laws and regulations; Article VIII, Part 2, Section 1 of the Maine Constitution; the provisions of the Municipal Home Rule Authority (30-A M.R.S. §3001 et seq.); and the provisions of the Planning and Land Use Regulation Act, 30-A M.R.S. §4312 et seq.

## **Article III Definitions:**

The terms in this ordinance shall have the same definition as that contained in state statutes regulating medical and adult use marijuana.

## **Article IV License Required:**

No person may establish, operate, or maintain an Adult Use, Medical Marijuana Establishment or Registered Dispensary without first obtaining a license from the City Clerk.

The holder of a license for a Medical Marijuana Store located in the following zoning districts – Commercial-B, Commercial-C, Commercial-D, or General Industrial, with the exception of the area east of Front Street– may exchange the license for an Adult Use Marijuana Store license in the same location. Said holder must file an application with a non-refundable \$500 application fee and pay the appropriate license fee.

The holder of a license for an Adult Use Marijuana Store located in the following districts - Commercial-B, Commercial-C, Commercial-D, or General Industrial – may exchange their license for a Medical Marijuana Store license in the same location. Said holder must file an application with the \$500 application fee and pay the appropriate license fee. Applicants who are not approved to receive a license will be refunded the license fee, but not the application fee.

All Adult Use, Medical Marijuana Stores, and Registered Dispensaries must be operated from permanent locations, which may utilize telephone and internet orders.

Adult Use, Medical Marijuana Stores, and Registered Dispensaries may not use vending machines for sales.

All licenses will expire one year from the date of issuance.

Exempt from licensing are

1. a person who cultivates marijuana exclusively for that person's own use or an immediate family member's use who is living within their household
2. a caregiver that is registered as non-cultivating under state law
3. any outdoor cultivation operations
4. any cultivation taking place in a residential zone

#### **Article V Application Procedure & Fees:**

**A.** All applications for licenses must be made on the form provided by the City Clerk in order to determine whether the applicant meets the requirements of this Ordinance and requires a one-time \$500 application fee. Prior to application to the City Clerk, the applicant must first obtain conditional approval from the appropriate State agency.

#### **B. Application and Annual License Fees**

All applications must be submitted with the appropriate application fees and if approved, the following annual license fees must be paid before the City will issue a license:

1. Marijuana Stores: License Fee: 5,000
2. Registered Dispensaries: License Fee \$5,000
3. Marijuana Manufacturing/Extraction Facility: License Fee: \$1,500
4. Marijuana Manufacturing/Consumable Facility: License Fee: \$100
5. Marijuana Testing Facility: License Fee: \$1,500
6. Marijuana Cultivation:
  - Tier 1: Up to thirty (30) mature plants (and an unlimited number of immature plants and seedlings) or up to 500 SF of plant canopy: \$500
  - Tier 2: 501-2,000 SF of mature plant canopy: License Fee: \$2,500
  - Tier 3: 2,001-7,000 SF of mature plant canopy: License Fee: \$4,000
  - Tier 4: 7,001-20,000 SF of mature plant canopy: License Fee: \$7,500

Every two (2) years, Tier 4 renewal applicants that are already at 20,000 SF may seek a 7,000 SF plant canopy increase if in compliance with applicable state law. Each 2-year increase will require a \$2,000 license fee increase.

Renewal applicants for Marijuana Cultivation licenses may seek an increase to a higher tier if they comply with the requirements in this section.

Applicants for Marijuana Cultivation licenses may not hold more than three (3) such licenses or a total combined plant canopy in excess of 30,000 SF.

7. Caregivers who are licensed under Maine Law for indoor cultivation which are operating exclusively in commercial or industrial zones: \$500

## **Article VI Standards for Permit/License:**

### **A. General**

1. Adult Use, Medical Marijuana Retail Stores, and Registered Dispensaries may only exist and operate in the Commercial-B (C-B), Commercial-C (C-C), Commercial-D (C-D), General Industrial (I) and Airport Industrial (AI) zoning districts.
2. Adult Use and Medical Marijuana Extraction Facilities may only exist and operate in the General Industrial (I) and Airport Industrial (AI) zoning district.

3. Adult Use and Medical Marijuana Testing Facilities may only exist and operate in the Commercial-B (C-B), Commercial-C (C-C), Commercial-D (C-D), General Industrial (I) and Airport Industrial (AI) zoning districts.
4. Adult Use and Medical Marijuana Cultivation Facilities may only exist and operate in the Rural Residential (R-R), Commercial-C (C-C), General Industrial (I) and Airport Industrial (AI) zoning districts.
5. Adult Use, Medical Marijuana Establishments, and Registered Dispensaries may not be operated on property located within:
  - a. Five hundred (500) feet of the property line of a public or preexisting private school (K-12) per 28- B M.R.S. §402.2.A; and/or
  - b. Five hundred (500) feet of the property line of a property used primarily for religious worship and related religious activities; property used for pre-existing licensed daycare use under 10-148 CMR c. 32; or recreational areas designated for use by children up to eighteen (18) years in age; and four hundred (400) feet of the property line of areas designated as municipal "safe zones" pursuant to 30-A M.R.S. §3253
6. Required setbacks under 5. a. & b. above shall be measured as the most direct, level, shortest, straight-line distance between property lines of a property containing a building or structure used as the premises where an Adult Use or Medical Marijuana establishment is conducted, to the nearest property line of the premises of a use listed in subsection A (5) shown above.
7. Medical Marijuana Establishments located and operating within Waterville under and in compliance with Maine's Medical Marijuana laws and regulations on or before December 13, 2018, who file applications for an Adult Use or Medical Marijuana Establishment license for locations that they currently operate within and have continuously operated within since December 13, 2018, are exempt from subsection 5 of this Section.
8. Security measures at all Adult Use, Medical Marijuana Establishment, and Registered Dispensary premises shall include, at a minimum, the following:
  - a. Security surveillance cameras installed and operating twenty-four (24) hours a day, seven (7) days a week, with ten (10) day video storage, to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises; and

- b. Door and window combination video and motion detector intrusion system with audible alarm, maintained in good working condition; and
- c. A locking safe affixed to the premises that is suitable for storage of all marijuana, marijuana products, and cash stored overnight on the licensed premises; and
- d. Exterior lighting that illuminates the exterior walls of the licensed premises during dusk to dawn, that is either constantly on or activated by motion detectors, and complies with applicable provisions of the lighting performance standards in the City of Waterville Zoning Ordinance; and
- e. Deadbolt locks on all exterior doors and any other exterior access points, excepting windows which shall have locks; and
- f. For adult use facilities: methods to ensure that no person under the age of twenty-one (21) shall have access to marijuana and marijuana products.

## 10. Ventilation

All Adult Use, and Medical Marijuana, and Registered Dispensary businesses are required to be in compliance with any Odor Nuisance Control and Abatement Performance Standard in the City's Zoning Ordinance.

## 11. Required Notices

There shall be posted in a conspicuous location inside each Adult Use, Medical Marijuana, and Registered Dispensary Establishment, at least one legible sign containing the following information:

- a. *"Adult use of or on-site consumption of marijuana is illegal; Open and public consumption of marijuana in the State of Maine is illegal; The use of marijuana or marijuana products may impair a person's ability to drive a car or operate machinery; No one under the age of twenty-one (21) allowed, Loitering prohibited"*.
- b. *Medical Use: "use of or on site consumption of marijuana is illegal; open and public consumption of marijuana in the state of Maine is illegal; the use of marijuana or marijuana products may impair a person's ability to drive a car or operate machinery; no one under the age of twenty-one (21) allowed, except a minor with a medical marijuana card between the ages of eighteen (18) and twenty-one (21), or a minor under eighteen (18 years of age accompanied by a legal guardian; loitering prohibited"*.

## 12. Signs

All signs used by, and all marketing and advertising conducted by or on behalf of the Marijuana Establishment and Registered Dispensary may not involve advertising or marketing that has a high likelihood of reaching persons under 21 years of age or that is specifically designed to appeal particularly to persons under 21 years of age. The signs, marketing, or advertising is prohibited from making any health or physical benefit claims.

All signage shall meet the requirements for signs under the City's Zoning Ordinance.

### B. Right of Access/Background Check/Inspection

Every Adult Use, Medical Marijuana Establishment, and Registered Dispensary shall allow code enforcement officers to enter the premises at reasonable times for the purpose of checking compliance with all applicable State laws and this Ordinance.

Due to fire, explosion, and other hazards inherent in Marijuana Cultivation and Manufacturing Facilities and Registered Dispensaries, including, but not limited to, heavy electrical loads, hot lighting fixtures, CO<sup>2</sup> enrichment, extraction solvents (acetone, butane, propane, ethanol, heptane, isopropanol, CO<sup>2</sup>, etc.), high-pressure extraction methods (CO<sup>2</sup>, etc.), and flammable contents, the owners of all such facilities shall agree to be inspected annually by the Waterville Fire Department.

Marijuana Cultivation and Manufacturing Facilities and Registered Dispensaries must comply with NFPA-1 Chapter 38 standards for *Marijuana Growing, Processing, or Extraction Facilities*, and these standards will be utilized by the Waterville Fire Department during its inspections of these premises.

### C. Indemnification

By accepting a license issued pursuant to this Ordinance, the licensee waives and releases the City, its officers, elected officials, employees, attorneys, and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of any Adult Use, Medical Marijuana Establishment or Registered Dispensary owners, operators, employees, clients, or customers for a violation of local, State, or federal laws, rules, or regulations.

By accepting a license issued pursuant to this Ordinance, the licensee agrees to indemnify, defend, and hold harmless the City, its officers, elected officials, employees, attorneys, agents, and insurers against all liability, claims, and demands on account of any injury, loss or damage, including without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of a licensed Adult Use or Medical Marijuana Establishment.

#### **D. State Law**

In the event the State of Maine adopts any additional or stricter law or regulation governing the sale, cultivation, manufacture, distribution, or testing of Adult Use or Medical Marijuana or marijuana products, the additional or stricter regulation shall control the establishment or operation of any Adult Use or Medical Marijuana Establishment, Registered Dispensary, Cultivation Facility, Manufacturing Facility, or Testing Facility in Waterville.

Compliance with 28-B M.R.S. c. 1, State laws and regulations pertaining to medical marijuana, and any other applicable State laws or regulations shall be deemed an additional requirement for issuance or denial of any license under this Ordinance, and noncompliance with 28-B M.R.S. c. 1 and any other applicable State law or regulation shall be grounds for revocation or suspension of any license issued hereunder.

### **VII Enforcement**

#### **A. Violations**

1. Any person including, but not limited to an Adult Use or Medical Marijuana Establishment or Registered Dispensary owner, a property owner where such business is located, or any agent or contractor for same, who orders or conducts any activity in violation of this ordinance shall be subject to a minimum civil penalty of \$100 and a maximum civil penalty of \$500. Each day a violation continues shall constitute a separate offense.
2. In addition to the civil penalty, the City is entitled to injunctive relief.
3. In any successful prosecution the City shall be rewarded its reasonable attorney fees.
4. The City is authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action.



5. Actions for the violation of this Ordinance may be initiated by the Code Enforcement Officer or City Solicitor.

**B. Code Enforcement Officer (CEO)**

1. The primary enforcement person for the city shall be the Code Enforcement Officer. If the CEO finds that any provision of this Ordinance is being violated, the CEO shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it, including but not limited to, discontinuance of illegal use of land, buildings, or structures, or work being done, removal of illegal buildings or structures, and abatement or mitigation of violations. A copy of such notices shall be maintained as a permanent record.

**C. Law Enforcement Officers**

Law enforcement officers may at any reasonable time conduct on-site inspections of adult-use establishments to ensure compliance with all applicable laws and conditions attached to license approvals and shall investigate all complaints of alleged violations of the Ordinance.

**Article VIII Conflict with Other Ordinances; Severability:**

Whenever a provision of this Ordinance conflicts with or is inconsistent with other provisions of this Ordinance, or of any other ordinance, regulation or standard, the more restrictive provision shall apply.

Should any section or provision of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

**Article IX Confidentiality**

All applications submitted by Registered Caregivers under this ordinance shall be confidential and only provided to City staff for the performance of their duties.

APPROVED

## Waterville City Council

Approved: April 2, 2019  
(Ordinance 56-2019)  
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